



DEPARTMENT OF THE ARMY
NEW ENGLAND DIVISION, CORPS OF ENGINEERS
424 TRAPELO ROAD
WALTHAM, MASSACHUSETTS 02254

REPLY TO
ATTENTION OF

November 29, 1982

NEDOD-R-31

U.S. v. ARX EXHIBIT 1 San Document

Honorable John A. Markey
Mayor of the City of New Bedford
City Hall, 133 William Street
P.O. Box A-2089
New Bedford, MA 02740

Superfund Records Center

SITE: New Bedford

BREAK: 4, 1

OTHER: 46758

Dear Mayor Markey:

This concerns your response of 26 July 1982 (Incl 1) to our Cease & Desist Order concerning filling in New Bedford Harbor seaward of property owned by the city of New Bedford.

I want to apologize for the delay in responding to your letter. Our staff had to search for historical aerial photographs of New Bedford to ascertain the extent of fill that existed at these two sites in May 1970. I will explain the relevance of this date.

As you indicated in your letter, Federal harbor lines existed in New Bedford Harbor for many years. Prior to May of 1970 fill could be placed in the waterway shoreward of these harbor lines without obtaining individual Corps of Engineers permits. However, these harbor lines were declared inoperative in May 1970. Therefore, any fill placed seaward of the mean high water line since May 1970 is unauthorized unless it was permitted by an individual Corps of Engineers permit. From the detailed aerial photographs of these sites taken in 1971 and 1972, it is clear that much of the existing filled area was placed seaward of the mean high water line since May 1970 without Corps approval.

To resolve the unauthorized fill the City of New Bedford must apply for individual Corps permits to retain all the unauthorized fill that has been placed seaward of the mean high water line since May 1970 at both of these sites. To apply for a Corps permit the city must submit a completed application form, accompanied by suitable drawings, prepared in accordance with our drawing requirements, that accurately depicts the extent of the unauthorized work.

For your assistance and information I am inclosing copies of 1971 aerial photographs of New Bedford Harbor we obtained from the Commonwealth of Massachusetts. Any fill placed in the waterway subsequent to the date of these photographs is unauthorized unless it was permitted by the Corps of Engineers.

NEDOD-R-31

Honorable John A. Markey

Your cooperation and assistance in resolving this matter is appreciated.

If you have any further questions, please contact Mr. Brian Valiton of my staff at 1-617-647-8335.

Sincerely,



ARTHUR N. RAPPAFORT

Lt. Colonel, Corps of Engineers
Deputy Division Engineer

Incl
As stated

Copies Furnished:

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National Marine Fisheries Svc.
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Division of Ecological Services
U.S. Fish & Wildlife Svc.
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Environmental Protection Agency
Enforcement Division, Region 1
JFK Federal Bldg., Government Center
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MA Dept. of Envrn. Quality Eng.
c/o Mr. Anthony D. Cortese
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